IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

PRESENT
THE HON'BLE MR JUSTICE R.SUBHASH REDDY
WRITE PETITION NO : 2140 of 2006

Dated 22nd August, 2006

Between

K.Jagannatham

....Petitioner

and

The Commissioner, Endowments Department,
Government of AP. Hyderabad and ors.

...Respondents.

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRITE PETITION NO : 2140 of 2006

ORDER:

The petitioner, who was appointed as Junior Assistant in Sri Mallikarjuna Swamy Devasthanam, Odela Village in Karimnagar District, has filed this Writ Petition, questioning notice dated 1-2-2006 in proceedings Lr.No.SMSD/01/2006 issued by the third respondent. The said notice is issued, referring to the order of the Commissioner of Endowments, Hyderabad, dated 19-1-2006, and the petitioner was called upon to explain why he should not be removed from service, as his appointment is allegedly illegal.

It is the case of the petitioner that he was initially appointed on 20-8-1993 and joined in service on 1-9-1993 and thereafter, he

was transferred from the said temple, but, ultimately, he was posted to the same temple by subsequent order. It is his further case that he was regularly appointed in the year 1993, and, he cannot be removed from service without conducting enquiry and without giving opportunity to him. It is stated that though impugned notice is issued calling explanation, but in the order, which is referred to, of the Commissioner, Endowments Department, dated 19-1-2006 directions were issued for removal of the petitioner.

On the other hand, it is submitted by the learned Government Pleader appearing for the respondents that the petitioner was appointed in the post, which is not available in the cadre strength and as much as his appointment is void *ab initio,* it is stated, steps are being taken for removal of the petitioner from service, as his appointment was illegal.

It is also brought to my notice by the learned Government Pleader appearing for the respondents that subsequently enquiry was initiated and the petitioner was issued notice dated 12-4-2006 in proceedings Rc.No.B/511/2006, and he was asked to attend the enquiry on 26-4-2006.

A perusal of the order dated 19-1-2006 passed by the Commissioner, Endowments Department, indicates that no notice was issued and no enquiry was conducted before passing the order for removal of the petitioner from service. Though impugned notice dated 1-2-2006 appears to be in the nature of show cause notice, but the same is consequent to the order passed by the Commissioner, Endowments Department in proceedings dated 19-1-2006. As much as no regular proceedings are initiated to enquire the nature of appointment of the petitioner, I allow the Writ Petition,

setting aside the order dated 19-1-2006 passed in Proceedings Rc.No.V4/42059/2005 by the Commissioner, Endowments Department and consequential notice dated 1-2-2006 in proceedings Lr.No.SMSD/01/2006 issued by the third respondent. However, as enquiry is already initiated vide proceedings Rc.No.B/511/2006, dated 12-4-2006, it is open for the respondents to proceed with the enquiry and pass appropriate orders. Equally, it is open for the petitioner to put-forth his defence with regard to his appointment and continuance in the post.

The Writ Petition is allowed to the extent indicated above. No order as to costs.

JUSTICE R. SUBHASH REDDY

DATE: 22-08-2006.
Msnr.